



CITY OF BRYAN, TEXAS
PURCHASING DEPARTMENT
1309 E. MLK Street
Bryan, TX 77803
(979) 209-5500 fax: (979) 209-5507

REQUEST FOR BID

NO. 04-112

“Annual Contract to Grind Wood and Brush at the Compost Facility”

DATE ISSUED: June 08, 2004

SEALED BIDS TO BE SUBMITTED BY:
2:00 pm, Wednesday, June 23, 2004

Vendor Name: _____

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INTRODUCTION

The City of Bryan is soliciting bids for *“Annual Contract to Grind Wood and Brush at the Compost Facility”*.

Sealed bids packages for **Bid #04-112** will be accepted until 2:00 p.m., Wednesday, June 23, 2004 and publicly opened and read aloud immediately following the opening. Any bid received after the above closing time will be returned unopened. Sealed bids must be delivered to:

Karen Sonley, Buyer
City of Bryan, Purchasing Department
1309 E. Martin Luther King St. Bryan, Texas 77803
(P) (979) 209-5505 (F) (979) 209-5507
ksonley@bryantx.gov

Plans, Specifications and Information for Bidders are on file and may be examined at the Purchasing Department Office at 1309 E. Martin Luther King Jr. Street, Bryan, Texas and may be obtained by prospective bidders by calling (979) 209-5500. These documents are also available online at <http://www.bryantx.gov/departments/purchasing/>.

The City believes that the data contained in these specifications is sufficient for the preparation of bids. Requests for additional information will be considered depending on the bid time frame and the availability of the requested information. Such information will be submitted to all known bidders simultaneously.

In order to ensure a fair and objective bid evaluation, all questions related to this Request for Bid shall be addressed in writing. **Questions must be submitted in writing (US Mail, Fax or E-mail) to the individual identified above prior to 10:00 a.m. CST on June 16, 2004.** Contact with any City of Bryan employee or official is prohibited without prior written consent from the City Purchasing Manager. Failure to observe this requirement may be grounds for rejection of the Bid.

Bidders are required to submit one (1) original bid and three (3) additional copies. Bids must be completed and submitted on the forms found within the Specifications. Incomplete bid forms will invalidate the bid and the bid will be rejected and returned to the bidder. The right to accept any bid, or to reject any or all Bids and to waive all formalities is hereby reserved by the City Council of the City of Bryan, Texas.

NONDISCRIMINATION IN EMPLOYMENT

Bidders on this work will be required to comply with the President's Executive Order No. 11246. The requirements for bidders and contractors under this order are available at the City of Bryan Purchasing Department.

Roger D. Dempsey,
Purchasing Manager

SCHEDULE OF EVENTS

- June 08, 2004 - Release bid request to vendors.
- June 8 & 15, 2004 - Advertisement dates.
- June 16, 2004 @ 10:00 a.m. C.S.T. - Deadline for written requests for clarifications to the RFB.
- June 23, 2004 @ 2:00 p.m. C.S.T – Sealed bids delivered to the Office of the Purchasing Department, City of Bryan, 1309 E. Martin Luther King St., Bryan, TX. Bids received after the time and date set for the opening of the bid will not be accepted and will be returned unopened.
- July 20, 2004: Anticipated date of award.

TERMS AND CONDITIONS

Definitions

In order to simplify the language throughout this request for bids, the following definitions shall apply:

CITY- Same as City of Bryan.

CITY COUNCIL- The elected officials of the Cities of Bryan, Texas who have been given the authority to exercise such powers and jurisdiction of all City business as conferred by the State Constitution and laws.

CONTRACT- An agreement between the City and a Vendor to furnish products over a designated period of time during which repeated purchases are made of the commodities specified.

VENDOR- The successful Bidder(s) of this bid request.

RFB- Request for Bids.

PROCUREMENT CARD- Chase-MasterCard

Instructions

The following instructions apply to all bids and become a part of terms and conditions of any bid submitted to the City of Bryan Purchasing Department, unless otherwise specified elsewhere in this bid request.

Form

Bids must be submitted on this form only. Bidders are required to submit one (1) original bid and three (3) additional copies. All bids submitted must be itemized with prices extended when practical. **BIDDER MUST RETURN THE ENTIRE ORIGINAL BID DOCUMENT WITH BID OR PROPOSAL.**

Bid Return

Bid must be sealed, and to ensure proper recognition upon its arrival, list the Bid Number on the outside of your envelope.

Late Bids

Bids must be received by the Purchasing Department prior to the time indicated on this form. Late bids will not be opened and will be returned to the bidder upon written request.

Acceptance

The City of Bryan reserves the right to accept or reject any or all bids, to waive any informalities and technicalities, to accept the offer considered most advantageous **in order to obtain the best value for the City**. Causes for rejection of a bid may include but shall not be limited to the bidder's current violation of any City ordinance, the bidder's current inability to satisfactorily perform the work or service, or the bidder's previous failure to properly and timely perform its obligations under a contract with the City. Bidders may be disqualified and rejection of proposals may be recommended for any

(but not limited to) of the following causes: 1) Failure to use the proposal form furnished by the Owner; 2) Lack of signature by an authorized representative on the proposal form; 3) Failure to properly complete the proposal; 4) Evidence of collusion among proposers; 5) Omission of uncertified personal or company check as a proposal guarantee (**if Bid Bond required**); or 7) Unauthorized alteration of bid form. Owner reserved the right to waive any minor informality or irregularity.

All bidders are hereby notified that the City of Bryan shall consider all factors it believes to be relevant in selecting the offer that provides the best value for the City including, but not limited to the purchase price, the proximity of the bidder as it relates to his ability to perform the contract for the City of Bryan, the delivery date, the reputation of the bidder and the bidder's goods or services, the quality of the bidder's goods or services, and the bidder's past performance under contracts with the City of Bryan, the bidder's compliance with City ordinances.

The City of Bryan, Texas is committed to obtaining its goods, products and services at the lowest price possible which benefits all the citizens of Bryan. Therefore, in order to accomplish this objective/goal, it is not the intention of the City neither to exclude particular vendors or manufacturers nor to create restrictive situations in its request for bids and proposals. Any manufacturer's names, trade names, brand names, catalog numbers, technical data, etc. used in the specifications are there for the sole purpose of establishing and describing general performance, quality levels, type and dimensions and such references are not intended to be restrictive. Alternate bids on similar or comparable products and/or services of any manufacturer or vendor equal to the products and/or services described in the specifications are invited and will be given careful consideration provided the alternate will accomplish the same task. The City of Bryan shall be the sole judge on whether the alternate product and/or service is similar to, equal to and in compliance with that specified. The decision of the City shall be final.

"In literal compliance" in reference to standards and specifications shall mean the meeting or exceedance of all or nearly all of the said standards and specifications. If the City determines that standards and specifications are in literal compliance where not all standards and specifications have been met or exceeded, the City must base such a determination on its finding that any standards and specifications which have not been met or exceeded do not render the bidder product any less usable for the purpose for which it is intended.

Award of Contract

The bid award may be based on, but not necessarily limited to, the following factors:

- a. the purchase price, including payment discount terms;
- b. the reputation of the bidder and of the bidder's goods or services;
- c. the quality of the bidder's goods or services;
- d. the extent to which the goods or services meet the City's needs;
- e. the bidder's past relationship with the City;
- f. the total long-term cost to the City to acquire the bidder's goods or services; and
- g. any relevant criteria specifically listed in this request for bid.

The City prefers to award the entire contract to a single Contractor; although, the City reserves the right to award a primary contract and a secondary contract in an effort to secure a back-up contractor to be used in emergency situations in the event the primary contractor is unable to respond as needed.

Term of Contract

This contract shall become effective from date of acceptance and approval by the City of Bryan. It shall remain in full force and effect with firm fixed bid prices for a period of twelve (12) months.

Extension of Contract

The City shall have the option of extending this contract, subject to approval of funding and review of the service provided by the Contractor, for two (2) additional one (1) year terms to be awarded one (1) year at a time. Contracts are extended upon mutual agreement of both Vendor and the City. The City of Bryan will not consider Contract extensions which include any increase in unit bid prices.

Assignment of Contract

This contract cannot be transferred or assigned to another party without the written consent of the City's Purchasing Agent and may be subject to cancellation if such consent is requested.

Contract Termination

The City may terminate this Contract at any time upon **thirty (30)-calendar** days written notice. Upon the Service Provider's receipt of such notice, the Service Provider shall cease work immediately. The Service Provider shall be compensated for the services satisfactorily performed prior to the termination date.

If, through any cause, the Service Provider fails to fulfill its obligations under this Contract, or if the Service Provider violates any of the agreements of this Contract, the City has the right to terminate this Contract by giving the Service Provider **five (5)** calendar days written notice. The Service Provider will be compensated for the services satisfactorily performed before the termination date. Termination of the contract for cause shall be deemed as sufficient evidence and cause to remove the Vendor's name from the bidder's list for receiving future bids.

No term or provision of this Contract shall be construed to relieve the Service Provider of liability to the City for damages sustained by the City because of any breach of contract by the Service Provider. The City may withhold payments to the Service Provider for the purpose of setoff until the exact amount of damages due the City from the Service Provider is determined and paid.

Reimbursements

There is no expressed or implied obligation for The City of Bryan to reimburse responding firms for any expenses incurred in preparing bids in response to this Request for Bids and City of Bryan will not reimburse responding firms for these expenses, nor will the City of Bryan pay any subsequent costs associated with the provision of any additional information or presentation, or to procure a contract for these services.

Minority Owned Businesses

Minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race color, creed, sex, or national origin in consideration for an award.

City Ordinances

The City of Bryan also reserves the right to reject the bid of any bidder who is currently in violation of any City ordinance. The City may, at its option, choose to negotiate a settlement of the ordinance violation as a condition of the bid award.

Error-Quantity

Bids must be submitted on units of quantity specified. In the event of errors in extended prices, the unit price shall govern. Any suggested quantity to secure better prices is welcomed. When discrepancies occur between words and figures, the words shall govern.

Quantities

Quantities indicated in the Bid are estimated based upon the best available information. The City reserves the right to increase or decrease the quantities by any amount deemed necessary to meet its needs without any adjustments in the unit bid prices.

Variations

Any variation from these specifications must be indicated on the attached Deviations from Specifications form.

F.O.B.-Damage

Bids will not be considered unless bid F.O.B. delivered Bryan, Texas. If shipping costs are not included in the unit bid price, bidder must give exact delivery cost, which is to be prepaid or added to the invoice. The City of Bryan assumes no liability of goods delivered in a damaged or unacceptable condition.

Firm Prices

Bidders must hold bid prices firm for 90 days after the bid opening date to allow the City sufficient time to award a contract. Once a Contract is awarded, the successful bidder must hold bid prices firm for the duration of the Contract. Sealed competitive bids may not be negotiated, amended or changed after the bid opening date.

Cooperative Agreements

Successful bidder agrees to extend prices and terms to all governmental entities who have entered into, or will enter into, joint purchasing interlocal cooperation agreements with the City of Bryan.

Authorized Signature

Bids must show full firm name and mailing address of bidder and be manually signed by an authorized sales or quotation representative of the bidder. Firm name and authorized signature should appear on each page of bid where spaces are provided. Submission of a signed bid will be interpreted to mean that bidder has hereby agreed to all terms and conditions set forth in all of the sheets which make up this invitation.

Withdrawal-Alteration Of Bids

Bids cannot be altered after receiving time or opening time. No bid may be withdrawn after opening time without acceptable reason in writing and with the approval of the purchasing agent.

Lump Sum Bids

Lump sum bids will be considered only if unit prices are quoted also. However, the totals of such quoted unit prices and the lump sum bids will not be considered if the price quoted also involves prices of commodities requested on an entirely separate bid request.

All-Or-None Bids

All-or-none bids will be considered only if bidder quoted prices on all items requested. If a bidder desires the City to consider an all-or-none bid, it must be stated on the deviations page. All-or-none bids will not be considered if prices quoted involved prices of items and services requested on an entirely separate bid request.

Payment Of Invoices

Invoices must be submitted by the successful bidder in duplicate to the City of Bryan, Finance Department, P.O. Box 1000, Bryan, Texas 77805, (979) 209-5080. All invoices to be paid in full within thirty (30) days after satisfactory delivery and billing, whichever is the later. The City will not be liable for payment of invoices received more than sixty (60) days after delivery of order, or completion of services.

Cash Discounts

Bidders may quote additional cash discount terms in the Cash Discount Column. If no discount is shown, prices are to be assumed net. Discount period to be started from the date of completion of entire order or date of receipt of invoice, whichever occurs last regardless of date of invoice.

Bids offering discounts for prompt payment via use of procurement card (Chase-MasterCard), or if invoice is paid within ten (10) days, are encouraged.

Taxes

The City of Bryan is exempt from Federal Excise, State Sales and Transportation Taxes. TAX MUST NOT BE INCLUDED IN BID. The City upon request will execute Tax Exemption Certificates. The City of Bryan is statutorily exempt from State and Local Sales tax and a permit number is not required.

Delivery

Bids must show the number of consecutive calendar days required to deliver the materials, services or equipment under normal conditions. Failure to specify delivery time will be considered reason enough to cause the bid to be disregarded. Delivery time quoted will be given consideration in awarding orders. If delivery is not made within ten (10) days after number of days specified on bid, entire order may be canceled and bidder's name removed from mailing list.

All deliveries are to be made to the Purchasing Department located at 1309 E. Martin Luther King, Jr. Street, unless otherwise specified in the Bid Request or Purchase Order. Deliveries will be accepted only during normal working hours on normal working days. Unless otherwise indicated, items received must be new and in first-class condition. Types of materials normally packaged for protection and convenience in storage shall be in the proper containers.

Liability

The successful bidder shall be liable for all damages incurred while in the performance of services pursuant to this request.

Material Safety Data Sheets

MSDS's must be provided prior to or with receipt of order, and when revised. Containers must be properly labeled and identified in accordance with the OSHA Hazard Communication Standard. Improperly labeled containers will result in refusal of the shipment and possible change in vendors.

Patents, Franchises, etc.

The successful bidder agrees to protect the City from any claim involving patent right infringements, copyrights or sales franchises.

No Bids

If bidder is unable to quote, the bid form should be returned to the purchasing agent before opening time, and reason given for not bidding if bidder desires to bid on future purchases.

Addenda

In the event of a needed change in the published bid documents, it is understood that all the foregoing terms and conditions and all performance requirements will apply to any published addendum.

All published addenda shall be signed and included with your response package as acknowledgement of the addendum. Bidders are responsible for obtaining all published addenda from the City of Bryan Purchasing office or by downloading these documents from the City of Bryan website. The City assumes no responsibility for the Bidders failure to obtain and/or properly submit any addendum. Failure to acknowledge and submit any addendum may be cause for the bid to be rejected. The City's decision to accept or reject any particular bid due to a failure to acknowledge and submit addenda shall be final.

Fiscal Funding

The City of Bryan, Texas operates and is funded on a fiscal year basis; accordingly, the City reserves the right to terminate, without liability, any contract for which funding is not available. Renewal of contract will be in accordance with Local Government Code 271.903 concerning non-appropriation of funds for multi-year contracts. The City reserves the right to rescind the contract at the end of each fiscal year if is determined that there are insufficient funds to extend the contract.

Court Jurisdiction

The City of Bryan and the successful Vendor will agree that the contract awarded from this Request for Bid shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in a state court of competent jurisdiction in Brazos County, Texas and further that neither party will seek to remove such litigation to the federal court system by application of conflict of laws or any other removal process to any Federal Court or court not in Texas.

PROVISIONS FOR BIDDING TO THE CITY OF BRYAN

- 1.0 Upon acceptance and approval this bid effects a working contract, for the period designated or until completion of specified job, between the City of Bryan and the successful bidder.
- 2.0 The Contractor shall act as independent contractor and shall in no sense act as agent or servant of the City of Bryan.
- 3.0 The Contractor shall furnish and pay for all labor, tools, machinery, materials, insurance, bonds, permits and any other incidentals necessary to perform a turnkey job in compliance with the specified requirements.
- 4.0 All prices quoted shall include delivery expenses of supplies, materials and equipment and tools to job site including unloading. The Contractor shall be fully responsible for receiving, unloading and storing all deliveries intended for the job. The City will not be liable for any loss or damage to supplies, materials, tools and equipment left on the job unguarded, by the Contractor before, during or after job is performed.
- 5.0 All work to be performed under the supervision of **Mark Jurica** or his/her delegated representative or assistant. Any questions pertaining to the work should be in writing and directed to the buyer listed on page three by the date and time specified.
- 6.0 All work is to be preformed in a professional manner by skilled personnel and proper equipment. The work shall be planned so as not to interfere with or create a hazardous condition to the regular operation of the department or division of the City.
- 7.0 The Contractor shall at all times take all reasonable precautions for the safety of employees on the work site and of the public, and shall comply with all applicable provisions of Federal, state and municipal safety laws. All equipment and machinery used in performance of this contract shall be in good working order at all times.
- 8.0 Final Cleanup: Upon completion of the work and before acceptance and final payment will be made, the Contractor shall leave the work site in a neat and orderly condition equal to that which originally existed. No payment will be made for this work, its cost being included in the bid.
- 9.0 Examination of Site: Bidders are required, prior to submitting any proposal, to read the specifications carefully, to visit the site of the work, to examine carefully local conditions, to inform themselves by their independent research, test and investigations of the difficulties to be encountered and judge for themselves of the accessibility of the work and all attending circumstances affecting the cost of doing the work or time required for its completion and obtain all information required to make an intelligent proposal. No information given by the City of any official thereof, other than that contained in the specifications shall be binding upon the City. Bidders shall rely exclusively upon their own estimates, investigations, tests and other data which are necessary for full and complete information upon which the proposal may

be based. It is mutually agreed that submission of a proposal is evidence that the bidder has made the examination, investigations and tests required herein.

- 10.0** State And City Sales Taxes: The Contractor's attention is directed to Texas House Bill 11 (72nd Legislature, 1st C.S.) which amended the Texas Tax Code Section 151.311. This amendment provides that by the Contractor entering into a separate contract, the Contractor will become a seller of materials purchased for the project, which will obviate paying taxes on materials incorporated into the project.

As a seller, the Contractor purchases materials and issues a resale certificate in lieu of paying the sales tax at the time of purchase. The Owner, as an exempt entity, will provide the Contractor with an exemption certificate at the time the "sale" of the materials to the Owner, thereby precluding the Owner, and Contractor, from paying the sales tax on the materials.

Services are not tax exempt. The Contractor will be required to pay all appropriate taxes for all services as set forth herein.

- 11.0** Indemnification: The Contractor shall defend, indemnify and save harmless the City and all its officers, agents, and employees from all suits, actions, or claims of any character, name and description, including attorney's fees expenses brought for or on account of any injuries or damages received or sustained by any person or persons or property, by or from the said Contractor or his employees or by or in consequence of any negligence in safeguarding the work, or through the use of unacceptable materials in construction of the work, or by or on account of any act or omission, neglect or misconduct of the said Contractor, or by or on account of any claims of amounts recovered under the Workmen's Compensation Law or any other law, ordinance, order or decree, and so much of the money due the said Contractor under and by virtue of his contract as shall be considered necessary by the City may be retained for the use of the City, or in case no money is due, his sureties shall be held until suit or suits, action or actions, claim or claims for injury or damages as aforesaid shall have been settled and satisfactory evidence to that effect furnished the City. Contractor shall defend, indemnify and save harmless the City, its officers, agents and employees in accordance with this indemnification clause regardless of whether the injury or damage is caused in part by the City, its officers, agents or employees.

- 12.0** Equal Employment Opportunity: During the performance at this agreement: The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, to be provided by the agency setting forth the provisions of this nondiscrimination clause.

The Contractor will, in all solicitations or advertisements for the employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

- 13.0 Contractor shall comply with all federal, state, county, municipal and/or other laws, ordinances, rules and regulations applicable to the performance of any work under this agreement and shall secure and pay for all governmental licenses, deposits, permits or fees required.
- 14.0 Contractor shall comply with H.B. 275, The Texas Prompt Payment Act, effective July 1, 1986, which in part, requires the contractor to pay their subcontractors within ten (10) calendars days after they receive payment from the City of Bryan.
- 15.0 The Contractor will be required to comply with all provisions of the President's Executive Order No. 11246 as of September 24, 1965.
- 16.0 Final Acceptance: The Contractor will be paid within thirty (30) days after final acceptance provided the Contractor has furnished the City satisfactory evidence that all sum of money due for any labor, materials, equipment or machinery furnished for and used in the prosecution of the work, or that the person or persons to whom the same may respectively be due have consented to such final payment. (The City reserves the right to retain five percent (5%) of the total contract price until such evidence is furnished). The acceptance by the Contractor of the last final payment shall operate as and shall release the City from all claims and liabilities under the Contract or for any act of neglect of said City relating to or connected with the contract.
- 17.0 Insurance Requirements: The Contractor agrees to maintain, on a primary basis, for the duration of this contract the insurance coverage's and limits as described below. The Contractor must deliver to the City a certificate(s) of insurance evidencing that such policies are in full force and effect verification within 5 business days of notification of the City's intent to award a contract. Failure to meet the insurance requirements and provide the required certificate(s) and any necessary endorsements within five business days **may cause the bid to be rejected.** The City reserves the right to obtain complete, certified copies of all required insurance policies at any time.

The requirements as to types and limits, as well as the City's review or acceptance of insurance coverage to be maintained by Contractor, is not intended to nor shall in any manner limit or qualify the liabilities and obligations assumed by the Contractor under the Agreement.

COMMERCIAL GENERAL LIABILITY INSURANCE – Limit of liability not less than \$1,000,000 per occurrence Contractor agrees to maintain a Combined Single Limit standard ISO version Commercial General Liability occurrence form, or its equivalent providing coverage for, but not limited to, Bodily Injury and Property Damage, Premises/Operations, Products/Completed Operations, Independent Contractors.

BUSINESS AUTOMOBILE PUBLIC LIABILITY INSURANCE – Limit of liability not less than \$1,000,000 per occurrence Contractor agrees to maintain a standard ISO version Business Automobile Liability, or its equivalent, providing coverage Combined Single Limit for all owned, non-owned and hired automobiles. Should the Contractor not own any automobiles, the business auto liability requirement shall be amended to allow the Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended coverage requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto policy.

WORKERS' COMPENSATION INSURANCE & EMPLOYERS' LIABILITY INSURANCE

– Statutory & \$500,000/\$500,000/\$500,000 The Contractor agrees to maintain Worker's Compensation Insurance & Employers Liability. In the event any work is sublet, the Contractor shall require the subcontractor similarly to provide the same coverage and shall himself acquire evidence of such coverage on behalf of the subcontractor.

ADDITIONAL INSURED ENDORSEMENTS The Contractor agrees to endorse the City as an Additional Insured on each insurance policy required to be maintained, with the exception of the worker's compensation and employers' liability policy.

WAIVER OF SUBROGATION Waiver of subrogation in favor of the City of Bryan for each required policy. When required by the insurer or should a policy condition not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Contractor enter into such an agreement on a pre-loss basis.

DEDUCTIBLES, COINSURANCE PENALTIES, & SELF-INSURED RETENTION

Contractor shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, or self-insured retention.

SUBCONTRACTOR'S INSURANCE The Contractor shall agree to cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified, provided the Contractor's insurance does not afford coverage on behalf of the subcontractor.

CERTIFICATE OF INSURANCE Contractor shall furnish the City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements. The certificate must be from a company with an A.M. Best rating of "A-" or better and/or otherwise acceptable to the City. Certificates must be submitted on the ACORD form and all endorsements must be included with the submittal. The certificate(s) shall contain a provision that coverage under such policies shall not be cancelled or non-renewed until at least thirty (30) days prior written notice, or ten (10) days notice for cancellation due to non-payment of premiums, is given the City of Bryan.

If the event the City is notified that a required insurance coverage will cancel or non-renew during the contract period, the Contractor shall agree to furnish prior to the expiration of such insurance, a new or revised certificate(s) as proof that equal and like coverage is in effect. The City reserves the right, but not the obligation, to withhold payment to Contractor until coverage is reinstated. If the Contractor fails to maintain  required insurance, the City shall have the right, but not the obligation, to purchase the required insurance at Contractor's expense.

Certificates and notices should be given to the City at the following address:

City of Bryan
Attn: Purchasing Department
1309 E. MLK Street
Bryan, TX 77808

RIGHT TO REVIEW AND ADJUST The City reserves the right to review these requirements and to modify insurance coverage and their limits when deemed necessary and prudent. Furthermore, the City reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition.

CERTIFICATE OF INSURANCE

DATE (MM/DD/YY)

PRODUCER

SAMPLE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED

INSURER A:

INSURER B:

INSURER C:

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THEIR TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY				EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire)	\$ 50,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 5,000
	<input type="checkbox"/> OWNER'S & CONT. PROT				PERSONAL & ADV INJURY	\$ 1,000,000
	<input type="checkbox"/> OWNER'S PROTECTIVE LIABILITY				GENERAL AGGREGATE	\$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PPROJECT <input type="checkbox"/> LOC				PRODUCTS - COMP/OP AGG	\$ 1,000,000
B	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	GARAGE LIABILITY				AUTO ONLY-EA ACCIDENT	\$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC AUTO ONLY AGG	\$
						\$
C	EXCESS LIABILITY				EACH OCCURENCE	\$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
	<input type="checkbox"/> DEDUCTIBLE					\$
	<input type="checkbox"/> RETENTION \$					\$
						\$
D	WORKERS COMPENSATION AND EMPLOYER'S LIABILITY				<input checked="" type="checkbox"/> WC STATU- <input type="checkbox"/> OTHER TORY LIMITS	
					E.L. EACH ACCIDENT	\$ 500,000
					E.L. DISEASE-EA EMPLOYEE	\$
					E.L. DISEASE-POLICY LIMIT	\$
	OTHER					

DESCRIPTION OF OPERATIONS / LOCATION / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

City of Bryan shall be named as additional insured on all Commercial General Liability and Automobile Liability policies. Worker's Compensation policies to include a Waiver of Subrogation in favor of the City of Bryan. (All Endorsements must be submitted with the certificate).

CERTIFICATE HOLDER

ADDITIONAL INSURED; INSURER LETTER: _____ CANCELLATION

**City of Bryan
Attn: Purchasing Services
1309 E. Martin Luther King
Bryan, Texas 77803**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BY CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL **30** DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

SPECIFICATIONS

RFB #04-112

“Annual Contract to Grind Wood and Brush at the Compost Facility”

SCOPE OF BID

This specification establishes the minimum requirements for a service contract to provide processing of brush and wood into shredded/ground wood chips for the City of Bryan, hereinafter referred to as “City”. All bidders are required to meet all specifications listed herein as minimum requirements and are required to submit a firm, fixed cost for all services deliverable under the terms of this solicitation.

1.0 Performance Requirements:

- 1.1 The successful bidder, hereinafter referred to as “Contractor”, shall provide on-site grinding services of brush and wood into shredded or ground chips.
- 1.2 The service shall be provided a minimum of four (4) times per year: February, May, August and November. The actual date of this service must be coordinated through the named City employee. The Contractor agrees to be on-site to provide service within three (3) weeks of notification from the City.
- 1.3 The Contractor will be required to grind/shred all materials stockpiled. The amount of material will vary between each grinding/shredding with an estimated amount of 16,000 tons of brush per year.
- 1.4 The Contractor will be required to remove a quantity of 300 tons of ground wood material from site within thirty (30) days completion of each quarterly grinding service.
- 1.5 The Contractor will be required to provide adequate dust suppression using controls such as water misters throughout the grinding process.
- 1.6 Upon completion of grinding service the final ground product shall not be piled higher than fifteen (15) feet.
- 1.7 The Contractor may work Monday through Saturday from 6:00 AM until 8:00 PM. Any hours worked beyond this schedule must be approved by the City in advance to allow the City time to provide personnel to coordinate and verify the production.
- 1.8 The Contractor will be required to transport a maximum of 1300 tons of material from grinding site to the designated location on facility’s working face within five (5) days completion of grinding.
- 1.9 The service shall be provided at one (1) City of Bryan location:

City of Bryan Compost Site
2988 Pleasant Hill Road
Bryan, Texas 77807

2.0 Machine Requirements:

- 2.1 The Contractor must provide all loading equipment, operators and grinding equipment necessary to load and process at a minimum 4,000 cubic yards of material in a twelve

- (12) hour day. The machine must be equipped with a progressive screen or similar device to size the chips no longer than 1” to 5” in length or 1” in diameter.
- 2.2 Grinding equipment shall be capable of processing brush, stumps, logs, and leaves.
 - 2.3 Grinding equipment should have the necessary controls to provide adequate dust suppression.
 - 2.4 All equipment used to provide the service specified in this contract must be in good repair and maintained by the Contractor.
 - 2.5 The Contractor will be responsible for providing and paying for all fuels used for the grinding and materials transporting process.
 - 2.6 The contractor will be responsible for furnishing all equipment and support necessary to complete the job in a timely and efficient manner.

3.0 **Applicable Specifications:**

- 3.1 The Contractor shall at all times observe and comply with all Federal and State laws which, in any manner, affect the operation and provision of this service. The Contractor shall observe and comply with all orders and laws and regulations that may be enacted by a legislative body having jurisdiction or authority over such programs.
- 3.2 The Contractor further agrees to procure all permits and licenses, pay all charges and fees and give all notices necessary and incidental to the lawful operation of this service. All taxes imposed on the Contractor or imposed by a federal, State or government agency shall be paid when due.

4.0 **Vendor Requirements** - To qualify for the contract award, the Contractor shall meet the following minimum requirements:

- 4.1 The Contractor must not have significant performance deficiencies under City contract within the last three (3) years. Including, but not limited to, contract termination for cause, failure to meet minimum contract requirements or outstanding financial obligations to the City.
- 4.2 The Contractor shall have provided services similar in scope to the services required in this specification within the last eighteen (18) months. Each customer reference in this specification shall be able to verify that the work was performed satisfactorily by the Contractor.
- 4.3 The bidder shall submit with his/her bid detailed relevant company experience, including the year, the name of the customer, company or agency for whom prior projects were performed, contact person, title, present address, phone number and a brief description of the project. **A minimum of five (5) customer references must be provided as evidence.**
- 4.4 The Contractor must furnish the City with a certificate of insurance showing the Contractor is covered by the insurance listed within the section titled “Special Provisions for Bidding to the City of Bryan”.
- 4.5 The Contractor shall designate to the Environmental Services Supervisor at least one person within the firm as technical liaison with office phone and/or pager number for accessibility.

5.0 **Other Requirements:**

- 5.1 The Contractor shall employ, at his own expense, train and supervise a staff of employees to assist him in the performance of this contract.
- 5.2 During the performance of this agreement, the Contractor will not discriminate against any employee or applicant for employment because of race, religion, sex or ethnic origin.
- 5.3 The Contractor shall employ competent, skilled persons who in appearance, manner and character will reflect credit on the City and will be acceptable to the citizens of Bryan. Both parties will agree that the City shall retain the right to order the Contractor to remove any employee from the site who, in the opinion of the City Supervisor, is unacceptable for employment.
- 5.4 The Contractor shall act as an independent contractor and shall in no sense act as agent or servant of the City.
- 5.5 The Contractor shall at all times take all reasonable precautions for the safety of employees of the work site and of the public, and shall comply with all applicable provisions of Federal, State and Municipal safety laws.
- 5.6 Prior to submitting any proposal, bidders are required to read the specifications carefully, to visit the site of the work, to examine local conditions carefully, to inform themselves by their independent research, test and investigations of the difficulties to be encountered. Bidders must judge for themselves the accessibility of the work and all attending circumstances affecting the cost of doing the work in the time required for its completion and obtain all information required to make an intelligent proposal. No information given by any City Official other than that contained in the specifications shall be binding upon the City. Bidders shall rely exclusively upon their own estimates, investigations, test and other data which are necessary for full and complete information upon which the proposal may be based. It is mutually agreed that submission of a proposal is evidence that the bidder has made the examination, investigations and tests required herein. For an inspection of the work site, the bidder should contact the Environmental Services Division at (979) 361-0859.

6.0 **Omissions:** It is the intention of this specification to acquire complete services for grinding/shredding of brush/wood into shredded/ground wood chips. Any services that have been omitted from this contract which are clearly necessary for the complete operation of this service shall be considered a requirement although not directly specified or called for in these contract documents.

7.0 **Exceptions:** The Contractor shall state in writing on the page labeled "Deviations from Specifications" any exceptions taken to any part of these specification documents. The Contractor is allowed to propose "equal" services. Equal services will be considered provided bidder clearly describes these services and they meet the requirements of this contract. Where reasonable to demonstrate said service prior to award of the contract.

8.0 **Contract Term:** The term of the contract shall be for a period of one (1) year beginning on or about July 20, 2004 and terminating on or about July 19, 2005. Upon completion of the term of the original contract period, the contract may be extended for two (2) additional years, one (1)

year at a time. Renewal is subject to satisfactory service and mutual agreement of both the contractor and the City.

- 9.0 **Payment:** The City will pay the Contractor within thirty (30) days from completion of the project or from a valid invoice, whichever is the later. The City shall also pay the Contractor for each period of service. Payment will be based on the amount of brush accepted at the compost facility within the grinding quarter, in tons. The tonnage to be ground/shredded will be agreed upon by the Contractor and the Environmental Services Supervisor before any work begins.

The Contractor shall be responsible for clean up of the stock pile location, leaving the site neat, orderly and free of all debris as determined by the Environmental Services Supervisor. No payment will be made for this work, its cost being included in the bid. Payment for Grinding/Shredding will not be made until all clean up is completed.

BID SHEET

(Page 1 of 4)

RFB #04-112

“Annual Contract to Grind Wood and Brush at the Compost Facility”

GENERAL

All bids must be in strict accordance with all terms, conditions and specifications within this Bid Request #04-112.

To be accepted, bidders must thoroughly complete all blanks in this section. (Please type or write legibly in ink.) Bidders must ensure that all calculations are correct. Calculation errors may be cause to reject a bid package. If there are discrepancies in unit price and total, unit price will prevail.

Price per ton to grind metal free material: \$ _____

METHOD OF PAYMENT:

1) PAYMENT TERMS: Net 30 (Vendor paid within 30 days of invoice or receipt of goods accepted in good order.)

2) PROMPT PAYMENT DISCOUNT: _____% within 10 days (e. g. 1%, 2%, 5%)

AND/OR (check one)

3) PROCUREMENT CARD PROGRAM _____yes _____no

(This payment method would allow for vendor payments to be made within 24 hours of use by City through City’s Procurement Card Program provider, Chase-MasterCard)

--If “yes” discount offered: _____% (e.g. 1%, 2%, 5%)

Company Name: _____

CLIENT REFERENCES

(Page 2 of 4)

References: The City of Bryan will conduct reference checks as needed to evaluate bids. The City may contact those listed, and inclusion of this listing in your bid is agreement that the City may contact the named reference. The City reserves the right to contact other companies or individuals that can provide information to the City that will assist the City in fully evaluating the Service Provider.

All reference checks must show that the successful bidder is in good standing with their current and previous customers. All bidders are required to provide a **minimum of five (5)** references from current and recent clients of similar size (and/or projects recently completed of similar size and scope.)

COMPANY NAME: _____

CONTACT: _____

ADDRESS: _____

PHONE #: _____

COMPANY NAME: _____

CONTACT: _____

ADDRESS: _____

PHONE #: _____

COMPANY NAME: _____

CONTACT: _____

ADDRESS: _____

PHONE #: _____

COMPANY NAME: _____

CONTACT: _____

ADDRESS: _____

PHONE #: _____

COMPANY NAME: _____

CONTACT: _____

ADDRESS: _____

PHONE #: _____

CERTIFICATION OF BID

(Page 4 of 4)

CERTIFICATION and AUTHORIZATION:

RFB #04-112

“Annual Contract to Grind Wood and Brush at the Compost Facility”

The undersigned certifies that he has fully read and understands this "Request for Bid" and has full knowledge of the scope, quantity, and quality of the services and materials to be furnished and intends to adhere to the provisions described herein. The undersigned also affirms that they are duly authorized to submit this Bid, that this Bid has not been prepared in collusion with any other Vendor, and that the contents of this Bid have not been communicated to any other Vendor prior to the official opening of this Bid. Additionally, the undersigned affirms that the firm is willing to sign the enclosed Exhibit A, Standard Form of Contract, if awarded the bid.

Signed By: _____ Title: _____

Typed Name: _____ Company Name: _____

Phone No.: _____ Fax No.: _____

Email: _____

Bid Address: _____

P.O. Box or Street City State Zip

Order Address: _____

P.O. Box or Street City State Zip

Remit Address: _____

P.O. Box or Street City State Zip

Federal Tax ID No.: _____

Date: _____

NOTICE OF NON-PARTICIPATION

RFB #04-112

“Annual Contract to Grind Wood and Brush at the Compost Facility”

If, for some reason, you are not participating in the solicitation, PLEASE complete the following and return to:

City of Bryan
Purchasing Department
Attn: Roger D. Dempsey,
Purchasing Manager
1309 E. Martin Luther King St.
Bryan, TX 77803

DO NOT return the solicitation packet. **Failure to respond may result in removal of your organization from our current Vendor file.**

Company Name: _____

Address: _____

Phone number: _____

Fax number: _____

Reason for no response to this RFP:

- _____ Cannot supply at this time
- _____ Suitable, but engaged in other work
- _____ Quantity too small
- _____ Opening date does not allow sufficient time to complete
- _____ Cannot meet requirements - please briefly explain:

Other remarks: _____

Signature

Title

CONTRACT
RFB #04-112
“Annual Contract to Grind Wood and Brush at the Compost Facility”

This Contract, dated _____, 2004, is between the **City of Bryan**, a Texas home-rule municipal corporation, (the City) and _____ (the Service Provider), whereby the Service Provider agrees to provide the City with certain services as described herein and the City agrees to pay the Service Provider for those services.

1. Scope of Services

In consideration of the compensation stated in **paragraph 2**, the Service Provider agrees to provide the City with the services as described in **Exhibit A, RFB #04-112**, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows:

“Annual Contract to Grind Wood and Brush at the Compost Facility”

2. Payment

In consideration of the Service Providers provision of the services in compliance with all terms and conditions of this Contract, the City shall pay the Service Provider according to the terms set forth in **Exhibit A, RFB #04-112**. Except in the event of a duly authorized change order, approved by the City in writing, the total cost of all services provided under this Contract may not exceed \$

3. Time of Performance

A. All work and services provided under this Contract must be completed according to the Scope of Services described in **Exhibit A, RFB #04-112**.

B. **Time is of the essence of this Contract.** The Service Provider shall be prepared to provide the services in the most expedient and efficient manner possible in order to complete the work by the times specified and described in **Exhibit A, RFB #04-112**.

4. Warranty, Indemnification, Release & Insurance

A. As an experienced and qualified Service Provider, the Service Provider agrees that the services provided by the Service Provider reflect the professional and industry standards, procedures, and performances. The Service Provider agrees the selection and supervision of personnel, and the performance of services under this Contract, will be pursuant to the standard of performance in the profession. The Service Provider agrees that the Service Provider will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Service Provider, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy, competency and quality of the services provided, nor shall the City's approval be deemed to

be the assumption of responsibility by the City for any defect or error in the aforesaid services provided by the Service Provider, its employees, associates, agents, or subcontractors.

B. The Service Provider shall promptly correct any defective work furnished by the Service Provider at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the services hereunder itself shall in no way alter the Service Providers obligations or the City's rights hereunder.

C. In all activities or services performed hereunder, the Service Provider is an independent contractor and not an agent or employee of the City. The Service Provider and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Service Provider shall be responsible for the services and the final work product contemplated under this Contract. Except for materials furnished by the City, the Service Provider shall supply all materials, equipment, and labor required for the services to be provided under this Contract. The Service Provider shall have ultimate control over the execution of the services. The Service Provider shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Service Provider or any of the Service Providers subcontractors.

D. The Service Provider must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as their personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Service Provider, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.

E. Responsibility for damage claims (indemnification): Service Provider shall defend, indemnify and save harmless the City and all its officers, agents, and employees from all suits, actions, or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property resulting from the Service Provider's negligent performance of the work, or by or on account of any claims or amounts recovered under the Workmen's Compensation Law or any other law, ordinance, order or decree, and his sureties shall be held until such suit or suits, action or actions, claim or claims for injury or damages as aforesaid shall have been settled and satisfactory evidence to the effect furnished the City. Service Provider shall defend, indemnify and save harmless the City, its officers, agents and employees in accordance with this indemnification clause only for that portion of the damage caused by Service Provider's negligence.

F. **Release.** The Service Provider releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Service Provider or its employees and any loss of or damage to any property of the Service Provider or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Service Provider's negligent performance of the work. Both the City and the Service Provider expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance.

G. **Insurance.** The Contractor agrees to maintain, on a primary basis, for the duration of this contract the insurance coverage's and limits as described below. The Contractor must deliver to the City a certificate(s) of insurance evidencing that such policies are in full force and effect verification within 5 business days of notification of the City's intent to award a contract. Failure to meet the insurance requirements and provide the required certificate(s) and any necessary endorsements within five business days **may cause the bid to be rejected.** The City reserves the right to obtain complete, certified copies of all required insurance policies at any time.

The requirements as to types and limits, as well as the City's review or acceptance of insurance coverage to be maintained by Contractor, is not intended to nor shall in any manner limit or qualify the liabilities and obligations assumed by the Contractor under the Agreement.

COMMERCIAL GENERAL LIABILITY INSURANCE – Limit of liability not less than \$1,000,000 per occurrence Contractor agrees to maintain a Combined Single Limit standard ISO version Commercial General Liability occurrence form, or its equivalent providing coverage for, but not limited to, Bodily Injury and Property Damage, Premises/Operations, Products/Completed Operations, Independent Contractors.

BUSINESS AUTOMOBILE PUBLIC LIABILITY INSURANCE – Limit of liability not less than \$1,000,000 per occurrence Contractor agrees to maintain a standard ISO version Business Automobile Liability, or its equivalent, providing coverage Combined Single Limit for all owned, non-owned and hired automobiles. Should the Contractor not own any automobiles, the business auto liability requirement shall be amended to allow the Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended coverage requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto policy.

WORKERS' COMPENSATION INSURANCE & EMPLOYERS' LIABILITY INSURANCE – Statutory & \$500,000/\$500,000/\$500,000 The Contractor agrees to maintain Worker's Compensation Insurance & Employers Liability. In the event any work is sublet, the Contractor shall require the subcontractor similarly to provide the same coverage and shall himself acquire evidence of such coverage on behalf of the subcontractor.

ADDITIONAL INSURED ENDORSEMENTS The Contractor agrees to endorse the City as an Additional Insured on each insurance policy required to be maintained, with the exception of the worker's compensation and employers' liability policy.

WAIVER OF SUBROGATION Waiver of subrogation in favor of the City of Bryan for each required policy. When required by the insurer or should a policy condition not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Contractor enter into such an agreement on a pre-loss basis.

DEDUCTIBLES, COINSURANCE PENALTIES, & SELF-INSURED RETENTION

Contractor shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, or self-insured retention.

SUBCONTRACTOR'S INSURANCE The Contractor shall agree to cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified, provided the Contractor's insurance does not afford coverage on behalf of the subcontractor.

CERTIFICATE OF INSURANCE Contractor shall furnish the City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements. The certificate must be from a company with an A.M. Best rating of "A-" or better and/or otherwise acceptable to the City. Certificates must be submitted on the ACORD form and all endorsements must be included with the submittal. The certificate(s) shall contain a provision that coverage under such policies shall not be cancelled or non-renewed until at least thirty (30) days prior written notice, or ten (10) days notice for cancellation due to non-payment of premiums, is given the City of Bryan.

If the event the City is notified that a required insurance coverage will cancel or non-renew during the contract period, the Contractor shall agree to furnish prior to the expiration of such insurance, a new or revised certificate(s) as proof that equal and like coverage is in effect. The City reserves the right, but not the obligation, to withhold payment to Contractor until coverage is reinstated. If the Contractor fails to maintain  required insurance, the City shall have the right, but not the obligation, to purchase the required insurance at Contractor's expense.

Certificates and notices should be given to the City at the following address:

City of Bryan
Attn: Purchasing Department
1309 E. MLK Street
Bryan, TX 77808

RIGHT TO REVIEW AND ADJUST The City reserves the right to review these requirements and to modify insurance coverage and their limits when deemed necessary and prudent. Furthermore, the City reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition.

5. Termination

A. The City may terminate this Contract at any time upon **thirty (30)-calendar** days written notice. Upon the Service Provider's receipt of such notice, the Service Provider shall cease work immediately. The Service Provider shall be compensated for the services satisfactorily performed prior to the termination date.

B. If, through any cause, the Service Provider fails to fulfill its obligations under this Contract, or if the Service Provider violates any of the agreements of this Contract, the City has the

right to terminate this Contract by giving the Service Provider **five (5)** calendar days written notice. The Service Provider will be compensated for the services satisfactorily performed before the termination date.

C. No term or provision of this Contract shall be construed to relieve the Service Provider of liability to the City for damages sustained by the City because of any breach of contract by the Service Provider. The City may withhold payments to the Service Provider for the purpose of setoff until the exact amount of damages due the City from the Service Provider is determined and paid.

6. Miscellaneous Terms

A. This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.

B. Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

The City of Bryan
Attn: _____
P.O. Box 1000
Bryan, Texas 77805

The Service Provider:

C. No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

D. This Contract represents the entire and integrated agreement between the City and the Service provider and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

E. This Contract and all rights and obligations contained herein may not be assigned by the Service Provider without the prior written approval of the City.

F. The Service Provider, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Bryan, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Service Provider must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.

G. The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

CITY OF BRYAN:

APPROVED FOR PROCESSING:

Kelly Wellman
Division Manager Environmental Services
Date: _____

APPROVED AS TO FORM:

Michael J. Cosentino, City Attorney
Date: _____

Jay Don Watson, Mayor
Date: _____

ATTEST:

Mary L. Stratta, City Secretary
Date: _____

SERVICE PROVIDER:

By: _____

Printed Name: _____

Title: _____

Date: _____

(Service Provider - Corporate Seal)

STATE OF TEXAS §
 §
COUNTY OF _____ §

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the _____ day of _____, 2003, by _____ on behalf of _____.

Notary Public in and for
The State of Texas